

16-525 INDUSTRIAL AIRPORT AREA OVERLAY DISTRICT.

- 525.1 PREFACE. The regulations contained within this Article are based upon and in accordance with the goals, policies and strategies contained in the Johnson County Industrial Airport Comprehensive Compatibility Plan. The protection of the public's health, safety, and welfare is one of the paramount interests in that plan, and toward that end, the regulations in this Article strive to avoid the establishment of airport hazards, lessen or prevent noise impacts affecting the public and the surrounding landowners, and promote a pattern of future land uses which encourages compatibility between the airport and its environs. Furthermore, the regulations in this Article recognize and adopt the statutory findings of fact of K.S.A. 3-702, which state that:

Airport hazards are contrary to the public interest, endanger the lives and property of users of the airport and of occupants of land nearby, and, if of the obstruction type, in effect reduce the size of the area available for the landing, taking-off and maneuvering of aircraft, and thus tend to destroy or impair the utility of the airport and the public investment or interest therein. Accordingly, it is hereby declared:

- A. That the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport; and
- B. That it is therefore necessary in the interest of the public health, safety, and general welfare that the creation or establishment of airport hazards be prevented.
- C. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which the City and/or County may raise and expend public funds and acquire land or property interests therein.

In addition, the minimization of aircraft noise impacts on the surrounding area is critical for striving to achieve airport-environs compatibility and for assuring that persons who live, work, or own property near the airport may enjoy a maximum amount of freedom from noise or other adverse impacts of the airport.

- 525.2 PURPOSE AND INTENT. The Industrial Airport Area Overlay District is intended to regulate and restrict the height of structures and objects of natural growth and otherwise regulate the use of property in the vicinity of Industrial Airport to:

- A. Protect persons and property near the airport.
- B. Provide for aircraft safety in the use of the airport.
- C. Regulate land uses and development to ensure compatibility with the airport.
- D. Provide a comprehensive zoning plan to provide for orderly development of land near the airport.

The regulations in this Article for the Industrial Airport Area Overlay District shall be supplementary to the regulations of the underlying zoning districts

contained within the Zoning Regulations for Johnson County, Kansas. In the event of a conflict between the regulations in this Article and any other regulations applicable to this same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and control to the extent of such conflict, but no further.

525.3 DEFINITIONS. Basic Terms. For the purpose of this Article, unless otherwise specifically provided, the words and phrases defined in this Section shall have the following meanings:

- A. AFFECTED JURISDICTION(S). The municipal or quasi-municipal entities which have adopted the regulations in this Article, specifically the City of Olathe, Kansas; the City of Gardner, Kansas; the County of Johnson, Kansas; and the Johnson County, Kansas Airport Commission.
- B. AIRPORT. The Johnson County Industrial Airport and all appurtenances used or acquired for the landing and taking-off of aircraft and utilized or to be utilized in the interest of the public for such purposes, for airport buildings or other airport facilities, and all other appurtenant rights-of-way or other interests either heretofore or hereafter established.
- C. AIRPORT ELEVATION. The highest point of an airport's usable landing area measured in feet from sea level.
- D. AIRPORT HAZARD. Any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking-off at the Johnson County Industrial Airport or is otherwise hazardous to such landing or taking-off of aircraft.
- E. APPROACH SURFACE. A surface longitudinally centered on the extended centerline of the runway and extending outward and upward from the end of the primary surface at the same slope as the approach zone height limitation slope set forth in Section 9 of this Article. In plan-view, the perimeter of the approach surface coincides with the perimeter of the approach zone.
- F. APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES. Height hazard zones as defined and set forth in Section 9 of this Article.
- G. COMMUNICATIONS NUISANCE. A use or structure which creates interference with radio communications and electronic navigational aids or devices, including instrument landing systems, for aircraft using the airport.
- H. CONICAL SURFACE. An inclined surface extending upward and outward from the periphery of the horizontal surface at a slope of one foot (1') upward for each twenty feet (20') outward for a horizontal distance of four thousand feet (4,000').
- I. DATUM. For the purpose of determining the height limits in all zones set forth herein, the datum shall be mean sea level elevation unless otherwise specified.

- J. DECIBEL. The unit for expressing and measuring the relative intensity of sounds on a scale from zero for the average least perceptible sound for the human ear to about 135 for the average sound level which inflicts pain to humans.
- K. DIRECTOR. Shall mean the Director of Planning for Johnson County, Kansas or such person's designee.
- L. FAA. Federal Aviation Administration.
- M. HEIGHT. The vertical distance between the top of any structure and datum unless a reference elevation other than datum is specifically required by the regulations in this Article.
- N. HELIPAD. The designated takeoff and landing area for helicopters at a heliport.
- O. HELIPAD PRIMARY SURFACE. A horizontal plane area which coincides with the size and shape of the helipad and which is at the established elevation of the helipad.
- P. HELIPORT. A landing, loading and takeoff area used by helicopters, whether at ground level or elevated on a structure, and including necessary passenger and cargo facilities, maintenance equipment and overhaul areas, fueling, service, storage, tie-down areas, hangars, and other necessary buildings and open spaces.
- Q. HORIZONTAL SURFACE. A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan-view coincides with the perimeter of the horizontal zone.
- R. IDENTIFIED CRITICAL CORRIDORS. The linear-shaped areas of the width and length established by this Article which are located along and centered on the extended centerline of runway 17-35 at the Johnson County Industrial Airport and which are labeled in a general fashion as "Critical Corridors" by the Johnson County Industrial Airport Comprehensive Compatibility Plan.
- S. ILLUMINATION NUISANCE. A use which creates difficulty for pilots to distinguish between navigational lights or markers and other lights or which otherwise impairs visibility with respect to aviation operations in the vicinity of the airport.
- T. IMAGINARY SURFACES. Planes having no real existence at the heights, slopes and dimensions of the approach, transitional, horizontal, and conical surfaces as defined and established by the regulations in this Article.
- U. LDN (DAY-NIGHT AVERAGE SOUND LEVEL). The unit of measurement of sound levels on the day-night loudness decibel scale which averages the decibel levels of sounds over a 24-hour period and reflects the tendency for sounds to be more disruptive between 10:00 P.M. and 7:00 A.M. by adding ten decibels (10dB) to all sound intensities occurring between those hours.
- V. NOISE-SENSITIVE LAND USE. (a) an activity or use of property which is sensitive to aircraft noise generation (examples include, but are not limited to: residential uses; educational classroom or

assembly facilities; religious classroom or worship facilities; hospitals and similar health service facilities; transient lodging quarters; outdoor places of public assembly such as amphitheaters, stadiums, arenas, and the like; indoor places of public assembly such as auditoriums, convention centers, concert halls, meeting halls, theaters, offices; and the like) or (b) such unconstructed uses as listed above, having an approved subdivision plat, development plan or building permit.

- W. NONCONFORMING USE. Any pre-existing structure, tree, or use of land which does not conform to the provisions contained within the regulations in this Article, or any amendment thereto, as to the effective date of such regulations.
- X. NONPRECISION INSTRUMENT RUNWAY. A runway having a nonprecision instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment for straight-in, nonprecision instrument approach procedure has been approved or planned and for which no precision approach facilities are planned or indicated on an approved airport layout plan or any other officially adopted airport planning document.
- Y. OFFICIAL ZONING MAP(S). The map(s) showing zoning districts for land subject to the zoning authority of Johnson County as prepared by the Johnson County Planning Office and duly adopted by the Board and any amendments thereto.
- Z. OVERLAY DISTRICT ZONING MAP. The official map for the Industrial Airport Area Overlay District prepared by the Johnson County Planning Office and duly adopted by the Board and any amendments thereto.
- AA. PLAN-VIEW. The image of an object or area as would be seen from directly above all points on the object or area being viewed.
- BB. PLANNING COMMISSION SECRETARY. Person appointed by the Planning Commission to serve as secretary.
- CC. PRECISION INSTRUMENT RUNWAY. A runway having an instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR), and any runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other officially adopted airport planning document.
- DD. PRIMARY SURFACE. A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section 9 of this Article. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. (See also helipad primary surface.)
- FF. RUNWAY. A defined area on the airport prepared for landing and take-off of aircraft along its length.

- GG. SEL (SOUND EXPOSURE LEVEL). The unit of measurement of single-event sound levels which combines both the maximum intensity and the duration of the sound event.
- HH. STRUCTURE. Any object, including a mobile object, constructed or installed by man, including but not limited to, buildings, towers, smokestacks, poles, pole lines, light poles, signs, earth formations, overhead transmission lines, radio and television aerials and antennae.
- II. TRANSITIONAL SURFACES. The surfaces extending outward at a 90 degree angle to the centerline of the runway and the extended centerline of the runway at a slope of one foot (1') upward of each seven feet (7') outward from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. The transitional surfaces connect the horizontal, conical, primary and approach surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of five thousand feet (5,000') measured horizontally from the edge of the approach surface and at a 90 degree angle to the centerline of the runway and the extended centerline of the runway.
- JJ. TREE. Any object of natural growth.
- KK. UNDERLYING ZONING DISTRICT. The existing zoning district beneath a particular portion of the Overlay District.
- LL. UTILITY RUNWAY. A runway that is constructed and intended to be used by propeller driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight and less.
- MM. VISUAL RUNWAY. A runway intended solely for the operation of aircraft using visual approach procedures.
- NN. ZONING MAP. See Overlay District Zoning Map.
- 525.4 ESTABLISHMENT OF DISTRICT. The Industrial Airport Area Overlay District (hereinafter referred to as the "Overlay District") is hereby established in like manner as other zoning districts permitted pursuant to Kansas Statutes annotated 3-301 et seq and 3-701 et seq. There are two categories of overlay zones within the Overlay District: the Industrial Airport Height Hazard Overlay Zones (hereinafter referred to as "Height Hazard Zones") and the Industrial Airport Interest Area Land Use Overlay Zones (hereinafter referred to as "Land Use Zones"). Boundaries for the overlay district and said overlay zones are described in the following Section 4 and regulations pertaining to these overlay zones are contained within Sections 9 and 10 respectively of this Article.
- 525.5 OVERLAY DISTRICT AND BOUNDARIES OF OVERLAY ZONES. The outer boundaries of the Overlay District coincide with the outer boundaries of the Height Hazard Zones and the Land Use Zones as shall be established by adoption of the Overlay District Zoning Map (hereinafter referred to as the "Zoning Map"). The Zoning Map reflects the Overlay District and Overlay Zone boundaries as follows:

- A. The boundaries of the Height Hazard Zones are identical to the boundaries of the approach, transitional, horizontal, and conical surfaces of the airport as established in Section 9 of this Article and are shown in Exhibit A herein. Said surfaces shall be based upon the obstruction surfaces described in Subpart C of Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace.
- B. Consistent with Exhibit A of the Johnson County Industrial Airport Comprehensive Compatibility Plan which outlines the boundaries of the Airport Interest Area around the Johnson County Industrial Airport, the outer boundaries of the Land Use Zones match the outer boundaries of the Airport Interest Area as shown in Exhibit B herein. The boundaries of zones in the Land Use Zones area are established as shown on the Zoning Map. The boundaries of the Height Hazard Zones and the Land Use Zones are shown on the Zoning Map which is hereby incorporated by reference as though fully set forth herein. A reduced-size copy of the Zoning Map is included herein for reference purposes as Exhibit C. Official copies of the Zoning Map shall be on-file at the Johnson County Planning Office. Land areas subject to the Zoning Map are identified on the Official Zoning Map(s) for Johnson County by the suffix "AOD" added to the underlying zoning district abbreviations used on the Official Zoning Map(s).

- 525.6 PERMITTED USES. Permitted uses within the Overlay District shall be those uses which are permitted by regulation in the underlying zoning district, with the exception of those uses which are prohibited by this Article. (See especially Section 10 of this Article.) Furthermore, all uses which are permitted by regulation in the underlying zoning district and not prohibited by this Article are subject to all qualifications and limitations as established by this Article. It should be noted that the use of land within the identified critical corridors is restricted as set forth in Section 10 of this Article.
- 525.7 CONDITIONAL USES. Conditional uses within the Overlay District shall be those uses which are: 1) listed as conditional uses in the specific underlying zoning district, with the exception of those uses which are prohibited by this Article, or 2) listed in the general regulations pertaining to special use permits within the City of Gardner Zoning Ordinance, with the exception of those uses which are prohibited by this Article. Furthermore, the approval of conditional or special uses shall be subject to all qualifications and limitations as established by this Article. (See especially Section 12, which identifies review procedures for conditional or special uses.)
- 525.8 PROPERTY DEVELOPMENT STANDARDS. Property shall be developed in accordance with the property development standards of the underlying zoning district, unless such standards are in conflict with this Article, in which event the regulations in this Article shall control. The applicable development standards shall include, but not be limited to, the regulations governing the following development characteristics: minimum lot size, maximum lot coverage, bulk regulations, open space requirements, landscaping and screening requirements, parking and loading regulations, and sign regulations.
- 525.9 USE LIMITATIONS. In addition to the use limitations imposed by the underlying zoning district, the following use limitations shall also apply to all properties located within the Overlay District:
- A. Uses within the Overlay District shall be permitted only in accordance with the maximum height restrictions in Section 9 of this Article.

- B. Uses located within the Land Use Zones within the Overlay District shall be permitted only in accordance with all applicable restrictions and standards as set forth in Section 10 of this Article.
- C. Uses located within the Noise Impact Area of the Land Use Zones within the Overlay District shall be permitted only in accordance with any applicable noise attenuation construction standards as required under Section 11 of this Article.
- D. At the time of issuance of any building permit for any structure within the Overlay District, the Johnson County Airport Commission reserves the right to request the voluntary dedication of an aviation easement when it is determined by the Commission that said easement is needed over the subject property to further the purpose and intent of the regulations in this Article.

525.10 HEIGHT HAZARD ZONES AND HEIGHT LIMITATIONS.

- A. Generally. In order to carry out the regulations in this Article, and in furtherance of Federal Aviation Regulations Part 77 which recommends height limitation standards, there are hereby established Height Hazard Zones. The Height Hazard Zones shall encompass all the lands within Johnson County lying beneath the approach, transitional, horizontal, and conical zones which are based on and reflect the approach, transitional, horizontal, and conical surfaces (See Exhibit A herein), as they apply to the Johnson County Industrial Airport and as further defined within this Section. The Height Hazard Zones are shown on the Zoning Map (See Exhibit C herein). The height limitations established for these zones shall be based upon the established elevation of the Johnson County Industrial Airport, which is 1,087 feet. From and after the effective date of the regulations in this Article, except as otherwise provided in this Article, no structure or tree shall be erected, altered, allowed to grow or allowed to exist in any zone created by the regulations in this Article to a height in excess of the applicable height limitations established herein for the Height Hazard Zones. An area located in more than one of the identified zones is considered to be only in the zone with the more restrictive height limitation.
- B. Height Hazard Zones Defined. The Height Hazard Zones and height limitations for the Overlay District are created and defined as follows:
 - 1. Airport Approach Height Hazard Zones, AA-1, AA-2, and AA-3 (as further defined in Table 1 herein), and Height Limitations:
 - a. General Provisions:
 - 1) The centerline of all Runway Approach Zones coincides with the continuation of the centerline of the runway.
 - 2) The inner edge of all runway approach zones coincides with the outer edge of the primary surface of the runway and has the same width as the primary surface of the runway.

- 3) All approach zones expand outward uniformly from the inner edge to the outer edge at the horizontal distance and outer edge width specified in Table 1.
 - 4) The height limitation at the inner edge of all approach zones is the same elevation as the primary surface.
 - 5) The height limitation in all approach zones increases continually and evenly from the inner edge to the outer edge of the approach zone at the rate or grade specified in Table 1, and the rate of increase in elevation is expressed and specified in the format of: "horizontal distance in feet outward for each foot of increased elevation," and is commonly abbreviated as, "horizontal distance: vertical distance."
 - 6) The height limitations in the approach zones are established by the imaginary surface sloping upward at the grade specified for the particular approach zone as specified in Table 1 herein.
- b. Airport Approach Zones and the imaginary surfaces establishing applicable height limitations are established as provided in the following Table 1:

TABLE 1

AIRPORT APPROACH ZONES AND THE IMAGINARY SURFACES
ESTABLISHING APPLICABLE HEIGHT LIMITATIONS

IMAGINARY SURFACE UPWARD		ZONE		WIDTH	HORIZONTAL	DISTANCE
		(FEET)		ALONG EXTENDED RUNWAY CENTERLINE		
		Inner	Outer	(FEET) From Inner Edge*	SLOPE (Horiz.	
		Edge*	Edge	and Outer Edges	Vertical	
Feet: ZONE Feet.)	ZONE NAME					
AA-1 Runway 4-22 Runway 13-31	Utility Runway Visual Approach Zone	500	2,000	5,000		20:1
AA-2 Runway 17R-35L Runway 17L-35R	Precision Instrument Runway Approach Zone	1,000	16,000	50,000	50:1	(First 10,000 ft.) 40:1

*The inner edge of the approach zones coincides with the outer edge of the primary surface of the runway.

2. Airport Transitional Zones, AT, and Height Limitations:

- a. The Airport Transitional Zones are the areas beneath the transitional surfaces of the airport runways as further defined herein.
- b. The height limitations for the Airport Transitional Zones are established by an imaginary surface that slopes one foot upward for each seven (7) feet outward, beginning at the sides of, and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the established airport elevation. In addition to the foregoing, there are established height limits sloping one foot upward for each seven (7) feet outward beginning at the sides of, and the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway Airport Approach Zone projects beyond the Airport Conical Zone, there are established height limits sloping one foot upward for each seven (7) feet outward beginning at the sides of, and the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at a 90 degree angle to the extended runway centerline.

3. Airport Horizontal Zone, AH, and Height Limitations:

- a. The Airport Horizontal Zone is established by swinging arcs of five thousand feet (5,000') radii for all runways designated

utility or visual and ten thousand feet (10,000') for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The Airport Horizontal Zone does not include the Airport Approach Zones or the Airport Transitional Zone.

- b. Airport Horizontal Zone height limitation is established at 150 feet above the established airport elevation.
- 4. Airport Conical Zone, AC, and Height Limitations:
 - a. The Airport Conical Zone is established as the area that commences at the periphery of the Airport Horizontal Zone and extends outward for a horizontal distance of 4,000 feet.
 - b. The Airport Conical Zone height limitation is established by an imaginary surface that slopes one foot upward for each twenty (20) feet outward beginning at the periphery of the Airport Horizontal Zone and at one hundred fifty (150) feet above the established airport elevation and extending to a height of three hundred fifty (350) feet above the airport elevation.
- C. Exceptions To Height Limitations: Nothing in this Article shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 75 feet above the surface of the land.
- D. Permits in Airport Height Hazard Overlay Zone:
 - 1. Future Uses: Except as specifically provided in Section 9(D)(1)(a), (b), and (c) which follow this paragraph, no new structure or use may be constructed or otherwise established in any zone created by Section 9 of this Article unless a permit therefor shall have been applied for and granted by the City. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particulars for the City to determine whether the resulting use or structure would conform to the regulations within this Article. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of the regulations in this Article shall be granted unless a variance has been approved as provided for in Section 13 of this Article.
 - a. In areas lying within the limits of the approach zones, but at a horizontal distance of 4,200 feet or more from each end of the runway, no permit shall be required for any structure less than seventy-five (75) feet of vertical height above the ground, except when such structure because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such approach zones.
 - b. In the areas lying within the limits of the transitional zones beyond the perimeter of the horizontal zone, no permit shall be required for any structure less than

seventy-five (75) feet of vertical height above the ground, except when such structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transitional zones.

- c. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any structure less than seventy-five (75) feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such structure would extend above the height limits prescribed for such zones.

Nothing contained in any of the foregoing exceptions [Section 9(D)(1)(a), (b), and (c)] shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Article except as set forth in Section 9(C) above. Furthermore, any permit or variance granted pursuant to the regulations in this Article, may, if such action is deemed advisable to effectuate the purpose of this Article and to be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the Johnson County Airport Commission, as its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

2. Existing Uses: No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming structure or tree or nonconforming use to be made or become higher or become a greater hazard to air navigation than it was on the effective date of the regulations in this Article, or any amendments thereto, or than it was when the application for a permit was made. Except as provided herein, all applications for permits for uses which conform to the regulations in this Article shall be granted. (See also Section 12, Nonconforming Uses).

525.11 LAND USE ZONES.

- A. Prohibited Development and Land Use Characteristics. Notwithstanding any other provision to the contrary contained within this Article, no use may be made of land or water within the Land Use Zones which would in any manner:
 1. Create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft,
 2. Make it difficult for pilots or aviation operations personnel of the control tower to distinguish between airport lights and other lights,
 3. Result in glare in the eyes of pilots using the airport or the eyes of aviation operations personnel of the control tower,

4. Impair visibility with respect to aviation operations in the vicinity of the airport,
 5. Endanger or interfere, in any other way, with the landing, takeoff, or maneuvering of aircraft,
 6. Create bird strike hazards or promote large population concentrations of birds, or
 7. Emit or discharge smoke, steam or fog that would impair visibility with respect to aviation operations in the vicinity of the airport in any manner which would interfere with the health and safety of pilots and the public in the use of the airport.
- B. Minimum Performance Standards. The following minimum standards and specifications shall apply for all land uses within the Land Use Zone.
1. Lighting and Glare. All lights, illumination, or glare used in conjunction with street, parking, signs or use of land and structures shall be arranged and/or operated in such a manner that is not misleading or dangerous to aviation operations at the airport or within the vicinity thereof. Except when lighting must be otherwise installed or operated for proper aviation operations at the airport or within the vicinity thereof, all lights shall be so installed and operated to prevent glare and deflect illumination from residential developments, streets and the aircraft flight paths normally used by aircraft arriving at or departing from the airport.
 2. Fire and Explosion Hazards. All activities involving the storage of inflammable and explosive materials, where permitted, shall be provided with adequate safety devices to guard against the hazard of fire and explosion, and with adequate fire-fighting and fire suppression equipment and devices standard in the industry. All such activities shall meet or exceed the minimum requirements imposed by the Uniform Fire Code as adopted by the City of Gardner.
 3. Burning. Burning of waste materials in open fires shall be prohibited within the Land Use Zone unless otherwise authorized by law, and shall be subject to such reasonable conditions as may be prescribed in each case. Compliance with the relevant provisions of Kansas Statutes Annotated 28-19-45, 28-19-46, and 28-19-47 and local laws and regulations shall also be required.
 4. Electrical Disturbance. No electrical disturbance or activities shall be permitted which would interfere with or disrupt the reliable and effective use of communications or navigation equipment normally used for aircraft operations at the airport or in the vicinity thereof. No electrical or other disturbance resulting from radio or television transmission or the operation of electrical, electronic, electro-magnetic equipment or devices shall be tolerated which affects adversely the operation at any point in the Land Use Zones

of any equipment other than that of the creator of such disturbance.

5. Smoke, Fly Ash, Fumes, Vapors, Gases, and other forms of Air Pollution. No emission shall be permitted at any point in the Land Use Zones which exceeds those standards established in any applicable local, state, and/or federal air pollution regulations.

C. Critical Corridor Areas.

1. Establishment of Critical Corridor Areas. There are hereby established Critical Corridor Areas within the area of the Land Use Zones as shown on the Zoning Map. These Critical Corridor Areas extend outward from both ends of Runway 17R-35L and Runway 17L-35R. Each Critical Corridor Area is located along and centered on the extended centerline of the respective runway. These Critical Corridor Areas extend both north and south of the airport to the distances shown on the Zoning Map, and the Critical Corridor Areas serve as the normal approach/departure flight path for aircraft using any of the runways. Within these Critical Corridor Areas, three Subareas are defined and established: Critical Corridor Subarea A: Limited Development and Uses Area, Critical Corridor Subarea B: Limited Development Area, and Critical Corridor Subarea C: Development of Compatible Uses Area.
 - a. The Critical Corridor Area for Runway 17R-35L is an open strip of land one thousand (1,000) feet wide. Within the Critical Corridor Area for Runway 17R-35L there are defined and established two Critical Corridor Subareas as follows:
 - 1). Critical Corridor Subarea A: Limited Development and Uses Area is:
 - a). that portion of the Critical Corridor Area for Runway 17R-35L which lies north of the runway and north of 151st Street as shown on the Zoning Map, and
 - b). that portion of the Critical Corridor Area for Runway 17R-35R which lies south of the runway and south of 183rd Street as shown on the Zoning Map.
 - 2). Critical Corridor Subarea C: Development of Compatible Uses Area is:
 - a). that portion of the Critical Corridor of Runway 17R-35L which lies north of the runway and south of 151st Street as shown on the Zoning Map, and
 - b). that portion of the Critical Corridor of Runway 17R-35L which lies south of the

runway and north of 183rd Street as shown on the Zoning Map.

- b. The Critical Corridor Area for Runway 17L-35R is an open strip of land five hundred (500) feet wide. Within the Critical Corridor Area for Runway 17L-35R there are defined and established three Critical Corridor Subareas as follows:
 - 1). The Critical Corridor Subarea A: Limited Development and Uses Area is that portion of the Critical Corridor Area for Runway 17L-35R which lies north of the runway and south of 143rd Street as shown on the Zoning Map,
 - 2). Critical Corridor Subarea B: Limited Development Area is:
 - a). that portion of the Critical Corridor of Runway 17L-35R which lies north of the runway and north of 143rd Street, and
 - b). that portion of the Corridor of Runway 17L-35R which lies south of the runway and at least
 - 3). Critical Corridor Subarea C: Development of Compatible Uses Area is that portion of the Critical Corridor Area which lies south of the runway and which is not more than one thousand (1,000) feet south of 175th Street.
- 2. Critical Corridor Area Use Restrictions. Due to the increased noise impacts and the increased potential for aircraft accidents within the Critical Corridor Areas, the use of land in the Critical Corridor Areas is restricted to the following uses, but only if the following uses also are permitted by the underlying zoning district:
 - a. Critical Corridor Subarea A: Limited Development and Uses Area. The Johnson County Industrial Airport Comprehensive Compatibility Plan identifies land areas adjacent to Critical Corridor Subarea A: Limited Development and Uses Area as an area for airport rural residential densities, airport estate residential densities, and for medium-density residential uses. Due to the noise sensitivity of residential uses and the potential for land use compatibility conflicts if there are high concentrations of persons within this area, the use of land within the Critical Corridor Subarea A: Limited Development Area is restricted to the following uses, but only if the following uses also are permitted by the underlying zoning district:
 - 1). General agricultural uses except feed lots or other agricultural uses which have the potential to attract substantial quantities of birds;
 - 2). Conservation areas or open space or any combination thereof;

- 3). Public or private parks, golf courses, or similar or natural recreation areas;
 - 4). Cemeteries;
 - 5). Landscape nurseries for the raising or storage of plant materials but not including greenhouses or retail uses within the corridor;
 - 6). Public utility local distribution or transmission facilities necessary for public service;
 - 7). Open storage area for personal property such as boats and travel trailers;
 - 8). Off-street parking lots; and
 - 9). Drainage ways without new permanent impoundments.
- b. Critical Corridor Subarea B: Limited Development Area. The Johnson County Industrial Airport Comprehensive Compatibility Plan identifies land areas adjacent to Critical Corridor Subarea B as areas for park/open space uses and for low-density residential, medium-density residential and airport estate residential densities. Due to the noise sensitivity of residential uses and the potential for land use conflicts if there are high concentrations of persons within this area, the use of lands within Critical Corridor Subarea B: Limited Development Area is restricted to the following uses, but only if the following uses also are permitted by the underlying zoning district:
- 1). Planned Cluster Developments for uses and densities consistent with the Johnson County Industrial Airport Comprehensive Compatibility Plan. Such Planned Cluster Developments shall:
 - a). place any new dwellings outside the Critical Corridor Area wherever possible,
 - b). not result in uses which concentrate more than one hundred (100) persons in the Critical Corridor Subarea B at any one time,
 - c). result in the Noise Attenuation Construction Standards in Section 11 of this Article being satisfied for any new dwellings, and
 - d). result in the provisions of Section 6 of the subdivision regulations for the Industrial Airport Interest Area District being satisfied for any new subdivisions.
 - 2). Uses permitted in Critical Corridor Subarea A also are permitted in Critical Corridor Subarea B.
- c. Critical Corridor Subarea C: Development of Compatible Uses Area. The Johnson County Industrial Airport Comprehensive Compatibility Plan identifies the Critical Corridor Subarea C:

Development of Compatible Uses Area as an area for general commercial and airport industrial park uses. Nonresidential uses are generally less sensitive to aircraft noise impacts and are therefore determined to be more compatible with airport operations. However, concentrations of persons within this area remains a primary concern when evaluating proposed urban development within Critical Corridor Subarea C. Nonresidential development and uses are permitted within Critical Corridor Subarea C if nonresidential development and uses also are permitted by the underlying zoning district and if the development and uses fully comply with the following restrictions:

- 1). Compliance with the Noise Attenuation Construction Standards contained in Section 11 of this Article shall be required for all structures as therein defined that develop in the Critical Corridor Subarea C: Development of Compatible Uses Area.
- 2). Nonresidential uses are permitted in Critical Corridor Subarea C: Development of Compatible Uses Area as permitted by the underlying zoning district. However, special design standards shall be applied to site development plans reviewed with respect to the regulations in this Article. The purpose of the special design standards is to achieve, to the greatest extent possible, site layouts which place open space or only very low-density uses in the most critical locations which are generally those areas of highest aviation activity. Compliance with the special design standards therefore is intended to minimize concentrations of persons in areas of highest aviation activity. For example, compliance with these special design standards could result in the use of Critical Corridor Subarea C for accessory site uses such as off-street parking lots, drainage and open space areas, outdoor storage areas, and the like.
- 3). The following uses are encouraged within Critical Corridor Subarea C, as permitted by the underlying zoning district:
 - a). General agricultural uses except feed lots or other agricultural uses which have the potential to attract substantial quantities of birds;
 - b). Conservation areas or open space or any combination thereof;
 - c). Public or private parks, golf courses, or similar or natural recreation areas;
 - d). Cemeteries;
 - e). Landscape nurseries for the raising or storage of plant materials but not including greenhouses or retail uses within the corridor;
 - f). Public utility local distribution or transmission facilities necessary for public service;

- g). Warehousing including buildings(s) for commercial storage of personal property;
 - h). Outdoor storage of equipment, automobiles, machinery, building materials, contractor's equipment storage yards;
 - i). Open storage areas for commercial or private storage of personal property such as boats and travel trailers;
 - j). Rail or trucking freight terminal;
 - k). Off-street parking lots, and
 - l). Drainage ways without new permanent impoundments.
2. Planned Cluster Development. Planned Cluster Development which clusters or concentrates buildings outside the Critical Corridor Areas is encouraged and permitted for parcels of land which are in or partially in a Critical Corridor Area. Planned Cluster Development of such parcels of land:
- a. shall allow buildings, structures and uses permitted by the underlying zoning district(s) to be clustered or concentrated outside the Critical Corridor Areas,
 - b. shall also allow buildings, structures and uses consistent with Section 10(C)(2) on the portion(s) of the parcel of land in a Critical Corridor Area,
 - c. shall retain the required open space and limited development character in the Critical Corridor Areas by clustering or concentrating buildings on a smaller land area outside the Critical Corridor Areas, by reducing the area of individual lots, and by alternate bulk requirements than those of a conventional development or subdivision, and
 - d. shall not result a greater net density (number of lots or total building square footage) with respect to the entire parcel of land than would be allowed by development of the entire parcel without clustering or concentrating the buildings outside the Critical Corridor Areas.

Planned development and Planned Cluster Development proposals shall be reviewed and processed pursuant to the following review procedures (Subsection D) of this Section, and in accordance with the City of Gardner Zoning Ordinance and Subdivision Regulations applicable for planned development and for cluster development.

D. Review Procedures and Issuance of Permits.

- 1. Application. The review procedures contained within this Subsection shall apply and be utilized by the City of Gardner as a supplementary part of its prescribed zoning and land use

regulation procedures for the following types of zoning and land use development activities which occur or are proposed within the Overlay District, including all airport-owned property located within the joint-review area is shown on Exhibit D herein:

- a. Zoning and rezoning applications;
- b. Conditional use permit applications;
- c. Subdivision plat proposals; and
- d. Development and/or site plans for any multi-family residential development of four or more dwelling units per building or any non-residential development.

2. Administrative Review.

- a. Generally. Written notices of all zoning and land use development activities listed in Section 10(D)(1) above shall be provided as follows:
 - 1) For all unincorporated areas, including airport-owned properties located within the joint-review area (shown in Exhibit D herein): the Johnson County Planning Office shall provide written notice to the Johnson County Airport Commission, and to the Planning Department of the applicable nearby city or cities (the City of Olathe and/or the City of Gardner);
 - 2) For all incorporated areas, including airport-owned properties located within any incorporated area: the City of Olathe Planning Department or the City of Gardner, as applicable, shall provide written notice to the Johnson County Airport Commission and to the Johnson County Planning Office.

The review procedures contained within this Subsection may be further implemented through mutually-agreed upon departmental procedures established by the affected jurisdictions hereto. Said procedures may be supplementary to the review procedures established herein, but shall not, in any instance, supersede or nullify the review procedures established within this Subsection. In the event of a conflict, either real or apparent, between such supplementary departmental procedures and the regulations contained within this Subsection, the regulations contained within this Subsection shall control.

- b. Jurisdictional Notice.
 - 1) The Planning Commission Secretary, upon receipt of any zoning or land use development proposal or application as defined under Subsection D(1) above, shall provide written notice and copies of all relevant documentation within seven (7) days of their receipt, to the Johnson County Airport Commission (hereinafter referred to as the "airport commission") and to the Planning Departments of, the City of

Olathe (hereinafter referred to as the "city") and Johnson County (hereinafter referred to as "county"). The written notice shall be sent by Certified Mail, Return Receipt Requested, and the notice shall invite and seek to obtain city and county review and comment regarding said proposals or applications.

- 2) The airport commission, the city and county shall submit their comments to the Planning Commission Secretary within five (5) working days after receipt of the notice and documentation. Failure on the part of the reviewing jurisdiction(s) to provide comments within this time frame shall indicate their concurrence with said proposal or application.
- 3) The Planning Commission Secretary shall incorporate any such comments and recommendations received on the proposal or application within its review and shall include them in the official record related thereto;
- 4) The Planning Commission Secretary shall provide to the airport commission, the city and county a full and complete copy of its comments or recommendations upon the proposal or application at least seven (7) days prior to the applicable Planning Commission meeting at which official consideration or action would be expected to be initiated;
- 5) The airport commission and the city shall notify the Planning Commission Secretary in writing, within three (3) days of receipt of the Secretary's comments or recommendations, of any conflict or dispute related to the recommendations on the proposal or application;
- 6) If no conflict or dispute is identified throughout this review procedure, the City of Gardner may proceed to take final action on the proposal or application through its regular review procedures, including as exhibits to the staff reports all comments submitted by the airport commission or the city;
- 7) Upon receipt of any notice of conflict or dispute from the airport commission, city or county, the City of Gardner shall refrain from any official consideration or official action upon the proposal or application until representatives of the City of Gardner, the airport commission, city and county have met to discuss resolution of the conflict or dispute. Said meeting shall be held within thirty (30) days following the receipt of notice of conflict or dispute;
- 8) In the event the conflict cannot be resolved through mutually acceptable recommendations at the staff level, then the Planning Commission Secretary shall submit the joint review comments and recommendations to the Planning Commission for

consideration and action. All comments received from the airport commission, city or county shall be included as exhibits to the staff reports;

- 9) In the event the conflict or dispute cannot be resolved through mutually acceptable recommendations at the planning commission level, then all statements of objection and recommendations submitted by the airport commission, city or county shall be included as exhibits to the staff reports and shall be made a part of the official record on the proposal or application. The proposal or application shall then be submitted to both the Johnson County Board of County Commissioners and to the governing body for the city for final approval or denial. Both governing bodies must approve the proposal or application in order for said proposal or application to be granted; denial of a proposal or application by either of the governing bodies shall render said proposal or application denied. The two governing bodies shall take action on the proposal or application within thirty (30) days of each other.
- 10) Appeals from a decision made by either the Johnson County Board of County Commissioners or the governing body for the city shall be processed pursuant to the appellate procedures established in Section 13 of this Article.
- 11) The attached Exhibit E shall serve, by way of example, as a procedural diagram of the review and comment process.

3. Issuance of Permits. Permits for land uses or developments which have been approved pursuant to this Article shall be issued by the Planning Commission Secretary. No permit for a land use which is inconsistent with any provision of this Article shall be granted unless a variance has been approved as provided for in Section 13 of this Article.

525.12 NOISE ATTENUATION CONSTRUCTION STANDARDS. Attenuation of noise, or outdoor to indoor Noise Level Reductions (NLR) by blocking noise paths or by use of other soundproofing measures, can reduce the impacts of aircraft noise on Noise Sensitive Land Uses. It should be noted, however, that while compliance with the NLR criteria required in this Section will reduce noise impacts, compliance will not eliminate, nor is it intended to eliminate, all indoor or outdoor noise problems resulting from outdoor noise sources.

- A. In the Noise Impact Area of the Land Use Zones within the Overlay District identified and shown in Exhibit F herein, if any building(s) or any portion(s) of any building(s) as follows are regularly occupied by humans more than four (4) hours per day with respect to Noise-Sensitive Land Uses, compliance with the Noise Attenuation Construction Standards designated herein shall be required for:

1. all new building(s) or portions thereof,

2. all addition(s) to any building(s) which existed before the adoption of the regulations in this Article,
3. all building(s) which existed before the adoption of the regulations in this Article if alteration(s), repair(s) or renovation(s) costing more than fifty percent (50%) of the market value of the building immediately prior to the alteration(s), repair(s) or renovation(s) are undertaken.

The Planning Commission Secretary shall determine whether the proposed alteration(s), repair(s) or renovation(s) would cost more than fifty percent (50%) of the market value of such building(s). The determinations shall be made with respect to evidence from the tax appraisal records, the estimated cost(s) of the proposed alteration(s), repair(s) or renovation(s), and, if necessary for an accurate determination, with respect to evidence from qualified, independent, third-party real estate appraisals and evidence from qualified, independent, third-party estimates of the construction cost(s).

Furthermore, the Noise Attenuation Construction Standards contained herein are strongly recommended, although not required, throughout all other areas of the Overlay District.

- B. The above identified types of buildings, structures or portions thereof shall be provided with acoustical treatment at the time of construction which is capable of provided a Noise Level Reduction (NLR) of a total of 30 decibels. For comparative purposes, normal construction standards can be expected to provide a NLR of 20-25 decibels.

This standard shall be met by the applicant submitting at the time of building permit application a verification statement by an acoustical engineer or other qualified professional engineer or architect that the design of the structure and the construction practices and/or materials of the structure will achieve the specified interior noise level reduction. The acoustical professional shall submit relevant information to permit the Planning Commission Secretary to verify that the proposed measures will achieve the interior noise level reduction standard.

525.13 NONCONFORMING USES.

- A. Regulations Not Retroactive. The regulations prescribed in this Article shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to these regulations when adopted or amended, or otherwise interfere with the continuance of such nonconforming use, except as provided in Subsection C below.
- B. Removal or Relocation of Poles and Lines. The City may require, upon thirty days notice in writing to any person, firm, association, or corporation

owning and maintaining any nonconforming pole or pole line, upon the roads and highways immediately adjoining the airport to remove, lower, change, or alter said nonconforming pole or pole line upon prior payment by the City, to said person, firm, association, or corporation of the reasonable and necessary expense of removing, lowering,

changing, or altering said pole or pole lines; or in lieu thereof to execute good and sufficient bond with corporate surety thereon as security for the payment of the reasonable and necessary expense of removing, lowering, changing, or altering such pole or pole lines. Reasonable and necessary expense of removing, lowering, changing, or altering said pole or pole lines shall include, among other items of expense, the actual cost of: 1) constructing underground conduits and the construction of such wires and equipment in such conduits, and 2) rerouting wires together with the poles, cross arms and other equipment connected thereto, together with the cost, if any, of new right-of-way made necessary by such rerouting. The City of Gardner shall not be held to be responsible for payment for the removal or relocation of poles and lines, if said costs have been previously addressed through franchise agreement.

C. Termination of Nonconforming Uses:

1. Abandonment. Where there has been a discontinuance of a nonconforming use for a period of one (1) year, or where there has been an express acknowledgment by the property owner that the use has in fact been abandoned, regardless of the time period involved, then said nonconforming use shall be considered abandoned, and such nonconforming use shall not thereafter be used.
2. Partial Destruction. Any nonconforming use which as a result of fire, explosion, or other casualty, has been damaged to the extent of more than fifty percent (50%) of its value immediately prior to damage, shall thereafter be terminated, and any new construction, repair, alteration, and/or renovation shall be in accordance with the regulations in this Article.
3. Change of Nonconforming Use. Whenever a nonconforming use has been changed to a more restrictive or conforming use, such previously existing nonconforming use shall not thereafter be allowed.
4. Nonconforming Use Not to be Expanded. Any existing nonconforming use, structure or tree shall not be expanded so as to permit it to be made or become higher or become a greater hazard to air navigation than it was when the regulations contained herein were adopted or than it was when the application for a permit was made.

525.14 HAZARD MARKING AND LIGHTING. In granting any permit or variance under this section, Johnson County may, if it deems such action advisable to effectuate the purposes of the regulations in this Article and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the County, at its own expense, to install, operate, and maintain such markers and lights as may be necessary to indicate the operators of aircraft in the vicinity of the airport the presence of such airport hazards.

525.15 ADMINISTRATION.

- A. Enforcement. It shall be the duty of the Planning Commission Secretary to administer and enforce the regulations in this Article. Violations of these regulations shall be processed in accordance with

the City of Gardner Zoning Ordinance and Subdivision Regulations concerning violations thereof.

- B. Interpretations. In the event an administrative interpretation of the regulations in this Article is necessary, said interpretation shall be made by the Planning Commission Secretary or such person's designee such that the result will not be contrary to the spirit, intent, and purpose of the regulations in this Article. The interpretation may include the classification of uses which are not specifically listed as a permitted or conditional use in the underlying zoning district, and those not included as a prohibited use by Section 10 of this Article, or of the appropriate zoning procedures for said proposed use. If it is determined by said Planning Commission Secretary that the interpretation could constitute a significant departure from the normal interpretational decisions typically made by the Planning Commission Secretary, then the Planning Commission Secretary shall notify the Directors of all affected jurisdictions which are a party to the regulations in this Article, including the Executive Director of the Airport Commission, informing them of said interpretation. The Director of any affected jurisdiction, including the Executive Director of the Airport Commission, may appeal said interpretation through the appeals procedures established within this Section.
- C. Amendments. Amendments to the regulations in this Article may be proposed by any affected jurisdiction which is a party to these regulations. If an amendment is initiated by the City of Gardner, the amendment shall be processed in the manner prescribed in the City of Gardner Zoning Ordinance and Subdivision Regulations and in accordance with all regulations contained therein. The Gardner Planning Commission shall make a recommendation to the Governing Body, who will then, after review and recommendation from the Johnson County Airport Commission and all affected jurisdictions hereto, take final action to approve or disapprove the proposed amendment.
- D. Variances. Any landowner desiring to erect or increase the height of any structure or permit the growth of any tree or otherwise use his property in violation of the airport zoning regulations in this Article, may apply for a variance from the regulations in question. Such variances shall be allowed where a literal application or enforcement of the regulations in this Article would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of the regulations. Any variance may be allowed subject to any reasonable conditions that the City of Gardner may deem necessary to effectuate the purposes of the regulations in this Article. Such variances shall be processed in the manner prescribed in the City of Gardner Zoning Ordinance and in accordance with all regulations contained therein, with review and comment from the Johnson County Airport Commission and all other affected jurisdictions in the manner required by the regulations in this Article.
- E. Appeals. (Reserved)
- F. Severability. If any of the provisions of the regulations in this Article or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of these regulations which can be given effect without the invalid provision or

application, and to this end, the provisions of these regulations are declared to be severable.

- G. **Effective Date.** The regulations in this Article and all exhibits hereto shall be in full force and effect from and after its adoption by all affected jurisdictions: the City of Olathe, Kansas, the City of Gardner, Kansas, and the County of Johnson, Kansas and the regulations in this Article shall be incorporated into and declared a part of the City of Gardner Zoning Ordinance.
- H. **Recording of Notice of Overlay District Zoning.** Following the adoption of the regulations in this Article by the Governing Body, the Planning Commission Secretary shall prepare and record notices for all properties located within the Overlay District stating that the property is located within this special overlay district and is therefore, subject to certain restrictions which have been placed on the development and use of land within this Overlay District. The notice shall also state that the zoning of the property has been changed to include the Airport Interest Area suffix "AOD" designating the property's location within this Overlay District. The form attached hereto as Exhibit F shall serve as a model for said notice. A copy of said notice shall be sent to the property owner of record as of the effective date of these regulations by certified mail, return receipt requested.

Approved by the City of Olathe, Kansas

Approved by the City of Gardner, Kansas

Approved by the Johnson County Board of County Commissioners